dürftigen Vertrags auf Grund einer Verwaltungsvereinbarung (auch) darauf stützt, die Mehrheit des Bundestags werde in der Verfassungswirklichkeit die von ihr getragene Bundesregierung nicht desavouieren, berücksichtigt er nicht genug die durchaus reale Möglichkeit eines Mehrheitswechsels zwischen vorläufiger Anwendbarkeit und Ratifizierung.

Karl Leuteritz

G. M. Badr
State Immunity
An Analitical and Prognostic View.
Nijhoff, The Hague 1984, pp. 248

The undertaking of certain topics by the ILC results inter alia in an increasing number of publications dealing with these topics. This is true also in respect of the problem of state immunity. The growing interest of the doctrine is influenced also by two additional factors: changes in the concept of state immunity in the recent period and codifications in this field in municipal legal systems of different states.
G. M. Badr has decided to present a complete study on state immunity. The first part of his book has been devoted to the historical development of this institution, beginning with first judgments of British and American courts concerning state-owned ships, of the beginning of the 19th century. In that time, the immunity used to be granted because of political reasons, without any connection with any international legal rules. Subsequent chapters deal with the judicial practice leading towards the creation of the concept of restrictive immunity (if such term can be used in respect of the institution in statu nascendi). Following stage can be defined as the period of domination of the absolute immunity – it occured in most states in the period between the world wars, except France – where it occured earlier and in wider scope of application (it concerned not only ships but also contracts and other obligations). It must be remarked, however, that certain states (Italy, Belgium, Mixed Courts in Egypt) still applied the concept of restrictive immunity. Finally, the third period (after the 2nd world war) can be characterized by the trend towards the application of the restrictive immunity rule. The author has considered the differentiation between public acts and private acts of foreign sovereigns in this context.
The second part of the book contains a critical appreciation of the doctrine of state immunity. In particular the author has considered the criteria which are used as test for granting and denying immunity under the restrictive theory (especially the differences between acts iure imperii and iure gestionis). Finally he has considered the dependencies between jurisdictional and executional immunity.
The third part of the book has been devoted to the analysis of recent municipal and international legal acts concerning the state immunity, from the point of view of the concept

of immunity adopted, character and scope of its application, as well as of executional immunity. The author has presented an opinion that the state immunity can hardly be regarded as a norm of the universal international law but it is rather a reflection of the notion used by national legislators. In our opinion, such suggestion goes too far. The customary international law is created by the state practice (the legislation is often passed in order to implement international legal developments into municipal systems) and codificatory works (those mentioned by Badr, like the Harvard Draft, ILA achievements and the European convention, and the others like the ones prepared by the Organization of American States, Asian-African Legal Consultatory Commission etc), are more codification than effects of the progressive development of international law – they testify that the notion of state immunity has its international legal aspect.
The book by Badr is rather descriptive, it must be admitted, however, that his work was difficult because of the large quantitiy of material available. Anyway, the book is a good source of information about the actual tendencies of development of the law of state immunity.

Władysław Czapliński

Erich Schanze
Investitionsverträge im internationalen Wirtschaftsrecht
Alfred Metzner Verlag, Frankfurt/M. 1986, 305 S., DM 82,— (Studien zum internationalen Rohstoffrecht, Bd. 9)

»Große Wirtschaftsprojekte mit internationaler Beteiligung finden ihren rechtlichen Ausdruck insbesondere in Investitionsverträgen«, so beginnt das Vorwort von *S.*s Frankfurter Habilitationsschrift (5), die am Beispiel zweier ausgewählter Bergbau-Unternehmungen (in Liberia und Papua Neuguinea) zum Verständnis der »Umsetzung organisationsrechtlicher Entwürfe im nationalen und internationalen Wirtschaftsrecht« beitragen will (ebd.); aus der Sicht des Anwalts, einer »Kautelarperspektive« sucht(e) *S.* »sowohl die Fakten des Regelungsgegenstandes wie die Systematik des Rechtsbereichs im ständigen Wechsel des Blicks zu erlernen (und) jenseits einer bloßen Check-Liste der Parteiinteressen und deren Regelung . . . eine allgemeine Disposition für die Beratung« zu entwickeln (16). Ein weniger interdisziplinär verfremdeter Schreibstil hätte diesem Anliegen vielleicht noch mehr genützt, gerade angesichts des überaus sorgfältigen Sachverzeichnisses (289 ff.).
Die inzwischen 9. »Studie zum internationalen Rohstoffrecht«, der als Anhänge auf mehr als 80 Seiten Auszüge (!) aus den exemplarisch erörterten Investitionsverträgen beigefügt sind, erschließt den Beziehungen von Status und Kontrakt einen neuen Anwendungsbereich, zumindest aber zeitigt sie einigen Erfolg dabei, »konsensuale Wirtschaftsregulierung« – die wechselseitige Interessenabstimmung in prozeßhaft angelegten Ver-